



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA CERTIFIED MAIL AND FACSIMILE**  
**RETURN RECEIPT REQUESTED**

DEC 20 2010

Melanie Sloan  
Citizens for Responsibility  
and Ethics in Washington  
1400 Eye Street, N.W., Suite 450  
Washington, D.C. 20005

RE: MUR 6312

Dear Ms. Sloan:

On June 15, 2010, the Federal Election Commission received your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act") by the Committee to Elect Brian "Ryan B" Doyle to Congress and Darryl Nettles, in his official capacity as treasurer. Based on the complaint and the response, the Commission, on December 14, 2010, voted to dismiss this matter with a caution to Respondents and close the file. A Factual and Legal Analysis providing a basis for the Commission's decision is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. Sec 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Audra Hale-Maddox, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Peter G. Blumberg  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2

3 **FACTUAL AND LEGAL ANALYSIS**

4 **RESPONDENT:** Committee to Elect Brian "Ryan B" Doyle to Congress, **MUR: 6312**  
 5 and Darryl Nettles, in his official capacity as treasurer  
 6

7 **I. GENERATION OF MATTER**

8 This matter was generated by a complaint filed with the Federal Election Commission by  
 9 Citizens for Responsibility and Ethics in Washington. *See* 2 U.S.C. § 437g(a)(1).

10 **II. FACTUAL SUMMARY**

11 The complaint alleges that the Committee to Elect Brian "Ryan B" Doyle to Congress  
 12 and Darryl Nettles, in his official capacity as treasurer ("the Committee"),<sup>1</sup> the authorized  
 13 committee for Brian Lamont Doyle's primary campaign for South Carolina's Third  
 14 Congressional seat, knowingly and willfully violated the Federal Election Campaign Act of  
 15 1971, as amended ("the Act"), when it failed to file its April Quarterly Report, due on April 15,  
 16 2010, and its Pre-Primary Election Report, due on May 27, 2010.<sup>2</sup> 2 U.S.C. § 434(a)(2)(A)(i)  
 17 and (iii).

18 Brian Doyle submitted the Committee's Response. The Response requests that the  
 19 Commission dismiss the complaint because the candidate completely self-funded his campaign  
 20 and accepted no contributions from others, and therefore did not meet the \$5,000 contribution  
 21 threshold that would trigger the Act's reporting requirements. *See* Response at ¶¶ 6-8.

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<sup>1</sup> Darryl Nettles, who is listed on the Committee's Statement of Organization as its treasurer, responded that he verbally agreed to work on Doyle's campaign, but never performed any treasurer duties. The Committee filed no disclosure reports during Mr. Doyle's campaign, but the Committee has not amended its Statement of Organization to remove Mr. Nettles' name. Patricia Smith, designated on the most recent Form 3 as Deputy Treasurer, filed an Amended Termination Report on behalf of the Committee following the Committee's receipt of the complaint in this matter.

<sup>2</sup> Although CREW also alleged that Mr. Doyle failed to file these disclosure reports, the Act does not place the filing responsibilities on the candidate, so the Commission did not notify Doyle as a respondent, and we make no findings as to him. Mr. Doyle responded to the Complaint on behalf of both himself and the Committee.

1 However, this response reflects a mistaken understanding of the law as the loaning and spending  
2 of a candidate's personal funds constitute contributions and expenditures. 2 U.S.C.  
3 §§ 431(8)(A)(i) and (9)(A)(i).

4 Mr. Doyle declared himself a candidate and contributed and spent over \$5,000 of his  
5 personal funds in connection with his campaign by February 2010. Thus, he became a candidate  
6 at that time and his Committee was required to file an April Quarterly Report and a Pre-Primary  
7 Election Report. See 2 U.S.C. §§ 431(2)(A), 434(a)(2)(A)(i) and (iii). Due to the Committee's  
8 apparent confusion over the law, and the fact that it has now filed a Report that discloses the  
9 campaign's total contributions and expenditures, the Commission exercises its prosecutorial  
10 discretion to dismiss this matter and cautions the Committee regarding the obligation to file  
11 required disclosure reports. See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

12 **III. FACTUAL AND LEGAL ANALYSIS**

13 **A. Factual Background**

14 Brian Lamont Doyle sought the Democratic Party's nomination for the South Carolina  
15 Third Congressional District seat in the June 8, 2010, primary election. He submitted a  
16 Statement of Candidacy dated December 1, 2009 to the Commission, received on December 16,  
17 2009, designating the Committee as his principal campaign committee. In his accompanying  
18 cover letter, Mr. Doyle stated that "[m]y State Party requires filing of form in order to be place  
19 [sic] on state web-site or affiliation with the party. I am hereby filing my form now as I have not  
20 met the federal requirement of \$5,000 dollars yet." Mr. Doyle also attached to his Statement of  
21 Candidacy his Declaration of Candidacy for the Democratic Party of South Carolina dated  
22 December 2, 2009, giving formal notice to the South Carolina Democratic Party of his intention  
23 to run for the seat in the Third Congressional District in the 2010 election. Thereafter, the

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1 Committee filed its Statement of Organization dated January 4, 2010, received on January 11,  
2 2010, listing Darryl Nettles as the Committee's treasurer. See footnote 1.

3 Mr. Doyle lost the Democratic primary election on July 8, 2010, garnering 35% of the  
4 vote. The Committee did not file any disclosure reports with the Commission during the course  
5 of the campaign, and only did so after the Commission mailed notice of the Complaint in this  
6 matter on June 22, 2010. On June 30, 2010, the Committee filed what appears to be a combined  
7 2010 April Quarterly/ 12-Day Pre-Primary Election/ Termination Report ("Termination  
8 Report"). The Termination Report disclosed an undated \$25,000 loan from the candidate, a  
9 single un-itemized \$100.00 contribution, and un-itemized expenditures totalling \$20,899.00,  
10 including \$7,500 in disbursements for "Media Services (Radio)" made April 24, 2010 through  
11 May 28, 2010, and \$8,199 in disbursements for "Mailing Material, Sign, etc." made April 12,  
12 2010 through May 20, 2010. The Committee also reported outstanding debt of \$29,150.00,  
13 including \$21,400 owed to the Eleazer Carter Law Firm for legal fees stemming from a lawsuit  
14 Doyle brought against the South Carolina Democratic Party and \$7,750.00 owed to MTG  
15 Services for "consultant services legal assistance." See FEC Form 3, June 30, 2010.

16 The Committee then filed its response to the complaint in this matter. In the response,  
17 the Committee stated:

18 Respondents show that they have rightfully relied on the  
19 information provided to them by this honorable Commission and  
20 its representatives. Specifically Respondents were informed that  
21 no reporting would be necessary unless and until an amount in  
22 excess of five-thousand dollars (\$5,000.00 USA) had been  
23 donated/collected. For the very purpose of avoiding situations  
24 such as this no campaign contributions were accepted by  
25 Respondents. The campaign was completely self-funded by  
26 Respondent Doyle. Of [sic] information and belief Respondents  
27 have faithfully and fully complied with all the requirements placed  
28 upon them.  
29

1 Committee Response at ¶¶ 6-8.

2 On July 13, 2010, RAD sent the Committee a Request for Additional Information  
3 ("RFAI"), informing the Committee that it had not met the requirements for termination and  
4 noting several deficiencies in the Termination Report. In addition, on August 3, 2010, RAD sent  
5 the Committee a failure to file notice regarding the Committee's failure to file its 2010 July  
6 Quarterly Report.

7 On August 17, 2010, the Commission received the Committee's Amended Termination  
8 Report dated August 13, 2010, correcting and clarifying certain deficiencies identified in the  
9 RFAI, and including itemized contributions and expenditures from December 31, 2009 through  
10 June 8, 2010, the date of the primary. Based on the itemized expenditures, which began on  
11 December 31, 2009, it appears that the Committee's spending exceeded \$5,000 on February 24,  
12 2010, thus triggering its reporting obligations under the Act. The Amended Termination Report  
13 also itemized the previously undated candidate loan(s) of \$25,000 by disclosing a \$10,000  
14 candidate loan made on May 10, 2010, and a \$15,000 candidate loan made on May 25, 2010, and  
15 identified the single previously un-itemized \$100 contributor as the candidate's father. In letters  
16 dated August 10, 2010, attached to the Amended Termination Report, Doyle states that he  
17 forgives the \$25,000 in loans he made to his campaign and removes from the Committee's  
18 Schedule D the debt and obligations reported on the June 30, 2010 Termination Report to the  
19 Eleazer Carter Law Firm and MTG Services; the first he states is now a personal debt pending a  
20 lawsuit, and the second has been repaid. The Amended Termination Report discloses a  
21 disbursement to MTG Media of \$7,543.00 on April 18, 2010, and a May 20, 2010 disbursement  
22 to the Eleazer Carter Law Firm of \$2,500.00. Lastly, on November 4, 2010, RAD sent the

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1 Committee a failure to file notice regarding the Committee's failure to file its 2010 October  
2 Quarterly Report.

3 **B. Legal Analysis**

4 An individual triggers registration and reporting responsibilities under the Act when the  
5 individual and/or persons he or she has authorized to conduct campaign activity receive over  
6 \$5,000 in contributions or make over \$5,000 in expenditures. 2 U.S.C. § 431(2)(A). The Act  
7 defines a contribution as "any gift, subscription, loan, advance, or deposit of money or anything  
8 of value made by any person for the purpose of influencing any election for Federal office." See  
9 2 U.S.C. § 431(8)(A)(i). An expenditure is "any purchase, payment, distribution, loan, advance,  
10 deposit, or gift of money or anything of value, made by any person for the purpose of influencing  
11 any election for Federal office." 2 U.S.C. § 431(9)(A)(i). The Campaign Guide for  
12 Congressional Candidates and Committees, available on the Commission's website, states that  
13 "[w]hen candidates use their personal funds for campaign purposes, they are making  
14 contributions to their campaigns. Unlike other contributions, these candidate contributions are  
15 not subject to any limits. [Citation omitted.] *They must, however, be reported.*" See Campaign  
16 Guide for Congressional Candidates and Committees at p. 26, Chapter 4, Section 12,  
17 "Candidate's Personal Funds," available at <http://www.fec.gov/pdf/candgui.pdf> (emphasis  
18 added).

19 The Amended Termination Report the Committee filed indicates that the Committee  
20 made expenditures exceeding \$5,000 as of February 24, 2010, thus triggering the reporting  
21 requirements of the Act. In all, the Committee disclosed \$25,100 in contributions and loans to  
22 the Committee, \$25,096 in expenditures, and \$18,900 in remaining debts, which the candidate  
23 has stated he is assuming as a personal debt, rather than it remaining a Committee debt.

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1 In an election year, a principal campaign committee must file a pre-election report 12  
2 days before any election, including a primary election, and must file quarterly reports, to be filed  
3 no later than 15 days after the last day of each calendar quarter. *See* 2 U.S.C. § 434(a)(2)(A)(i)  
4 and (iii). The Committee failed to timely file its 2010 April Quarterly, July Quarterly, and  
5 October Quarterly Reports, and its election-sensitive 2010 Pre-Primary Report, thereby violating  
6 the Act.

7 Failure to timely report is a serious violation of the Act. However, the Commission  
8 decided not to pursue an enforcement action under the circumstances presented by this matter.  
9 The response indicates that the Committee still does not understand that a candidate's personal  
10 funds loaned to his or her principal campaign committee constitute contributions, and that  
11 expenditures, even from the candidate's own funds loaned to the committee, can trigger the  
12 \$5,000 expenditures threshold. There is no information indicating that the Committee's failure  
13 to file its reports timely was knowing and willful. It appears that the violations arose from the  
14 sincere but mistaken belief that self-funded campaigns do not have to file disclosure reports with  
15 the Commission, and it appears that the candidate and the Committee avoided soliciting  
16 contributions from others in order to avoid triggering reporting obligations, in adherence to that  
17 mistaken belief. This Factual and Legal Analysis should educate the Committee, and remove  
18 any confusion should Mr. Doyle choose to run again for federal office.<sup>3</sup> Moreover, the  
19 Committee, albeit too late to inform the voters in South Carolina's Democratic primary election,  
20 has now placed its itemized contributions and expenditures for Mr. Doyle's campaign on the

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<sup>3</sup> Mr. Doyle ran for the same federal office in the 2008 election cycle as a write-in candidate. He filed only a Statement of Candidacy with the Commission. There is no available information concerning whether Mr. Doyle's 2008 campaign received or spent in excess of \$5,000.

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- 1 public record. Accordingly, the Commission exercises its prosecutorial discretion and dismisses
- 2 the complaint. *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

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